

CONSERVATION ADVISORY BOARD
Town of Marilla

Date: April 5, 2005

Members Present: Leonard Janiga
Ralph Burch, Jr.
Jim Heinrich
Warren Cullen, Sr.
David Muench
Diane Fronczek

Members Absent:

Guests: Christopher Tait

Town Board: Warren Handley, Councilman

Leonard Janiga, Chairman, opened the meeting at 6:35 p.m. Ralph Burch made a motion, seconded by Warren Cullen, Sr. to accept the minutes of March, 2005 as written. All in favor – 6 ayes.

Old Business:

Leonard Janiga presented all the board members with copies of a letter written by the residents on Greenwood Terrace. They ask that any development of the land recently purchased by Walter Schmidt on Townline and Bullis Rds. cease immediately.

The board reviewed the letter Mr. John Foss, Supervisor, sent to Walter Schmidt regarding his request for a flag lot on Bullis and Three Rod Roads. In the event that we as a recommending board, are thought to treat any applicant more differently than another is not true. We do not base our decision upon the person applying, but only on the property at hand.

Regarding the request made for a flag lot on Bullis and Three Rod Rds., by Mr. Walter Schmidt, Ralph Burch made the following recommendation to the Town Board, seconded by Diane Fronczek and passed by a roll call vote:

Leonard-yes	Warren—no
Ralph---yes	David----yes
Jim-----yes	Diane----yes

The CAB recommends to the Town Board that it not approve or allow the plan for the subdividing of the property SBL # 140.00-9-1.11, Bullis and Three Rod Rds., and outlined to the CAB at its February 2005 meeting by W. Schmidt. It is the determination of this Board that there are at least 4 reasons that this plan should be disallowed, any of which is a sufficient reason for denial.

1. **Prime Farmland**- The proposed flag lots presented as part of the subdividing of this farm would be located on **prime farmland** as defined in Marilla’s **Code Book Section 210-11,A, Section 7, page 21020.1**. “The proposed lot shall not be allowed to fringe on prime farmland. Prime farmland as used herein shall mean land currently under cultivation or with the potential to be cultivated.” This land is also included in the **Marilla Comprehensive Plan, Agricultural Resource Map as “Prime Agricultural Land,”** and in the **Soil Map** as Blasdell-Farnham soil, one of the best soils in the Town. It has been cropped in the past and is representative of some of the better cropland soils in Marilla.
2. **Subdivision of Land** – This proposal is by definition a SUBDIVISION OF LAND, and as such, the splitting of this parcel is limited to two new lots in addition to the original lot in any five year period..see Code Book, 180-8, page 18006 for the following:

“Subdivision- A. The division of any parcel of land..**into four or more lots, sites or other division of land for immediate or future sale or transfer of ownership or for building development within any consecutive five year period.** For Example, a property owner could create two new lots over and above the original lot within a five year period without the action being considered a subdivision. That is, three new lots over and above the original lot within any five year period constitutes a **subdivision.**”

The CAB has determined that the plan presented for this property includes at least four lots or sites and potentially as many as six, since each private drive flag lot approved can service two single family homes. This plan, with either four or six lots or sites constitutes **a subdivision of land that is in violation of the above passage.** Since this parcel was already split once before in this 5 year period, only two splits are presently allowed.
3. Additionally, we feel that the above code reference to subdividing up the land applies **even if** the parts are sold for **future** building lots. Therefore, even the **selling** of these sub-divided lots constitutes creating a subdivision of land which is a violation of Code and should therefore also be disallowed. Subdivision is contrary to page 1202—Article 12-6, Section D.
4. And lastly, the **Conservation Overlay District** requirements have not been met to our knowledge, particularly the wetland that is contained within this property.

Warren Handley submitted copies of his letter to Neill and Strong, Town Attorneys, in which he asks them to clarify what a subdivision is. After discussion among the board members, they did express agreement with the subdivision definition; Section 180 8 B; the definition of Subdivision excepts

from it “The division of a parcel of record as of the effective date of the code chapter into three or fewer lots or parcels which front along an existing publicly owned highway or road.” **If there were more than three lots, the provisions of 180 8 A would be applicable. A division of more than 3 lots would therefore constitute a Subdivision.** Subdivision of land is not permitted in any district other than the RR District. **If you divide a property into more than three lots, even if you are not going to develop it at this time, it still would be a subdivision under the normal reading of the statute.**

Leonard Janiga asked Diane Fronczek to look up in the old CAB records for any rules and regulations that have been adopted, as well as meeting guidelines pertaining to the CAB and report back to the board.

Warren Cullen, Sr. made the recommendation to nominate Ralph Burch as Co-Chairman of the CAB, seconded by Diane Fronczek. All in favor—6 ayes. Ralph suggested we keep a running list of suggestions that can be referred to as the occasion arises. These would include any brainstorming ideas that may be passed along to the Town Board.

Copies of articles mentioning the moratorium of flag lots were given to all board members by Ralph Burch, and Jim Heinrich. Ralph also gave a copy of a flag lot scaled drawing to everyone.

New Business:

Christopher Tait requested a flag lot on Three Rod Road, but was not in possession of proper paperwork. The board tabled the request until Mr. Tait brings in a complete survey and application.

Warren Handley, Councilman, brought up the policy of parcel splits in Marilla. He referred to procedures done by the Town of Alden on this policy and the board discussed them. Basically, any parcel split needs to have an application or permit before any split may occur. David Muench suggested the need for a block development for any property to be developed—ex. flow chart inventory.

In regards to the PACE program, Leonard has e mailed Amy Holt from the WNYLC with changes made, requesting an update on her contacting landowners, but has not received a response.

On a lighter note, the CAB wants to extend its most sincere thank you to Tom Wantuck who recently left us to become a member of the Planning Board. **Thank you Tom** for your many years of dedication to our board as Chairman and member. We valued your input, dedication and friendship. We wish you well with your new board.

Ralph Burch made a motion, seconded by Jim Heinrich, to adjourn the meeting. All in favor—6 ayes. We were adjourned at 9 p.m. The next regular meeting will be May 3, 2005 at 6:30 p.m.

Respectfully submitted,

Diane Fronczek, Recording Clerk